

Message Text

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ACTION ARA-10

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 6478

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C O N F I D E N T I A L BRASILIA 8687

E.O. 11652: XGDS-1

TAGS: PFOR, SNAR, BR, UY

SUBJECT: TOSCANINO PROSECUTION

REF: STATE 253459

1. IN VIEW OF THE WELL-KNOWN AND ACUTE BRAZILIAN SENSITIVITIES ON THE RELEASE OF CONFIDENTIAL INFORMATION ON BILATERAL MATTERS, EMBASSY BELIEVES THAT THE CONSEQUENCES TO U.S.-BRAZILIAN BILATERAL RELATIONS OF THE RELEASE OF THE INFORMATION CITED IN REFTEL WOULD BE HIGHLY NEGATIVE AND, THE EFFECT ON THE NARCOTICS PROGRAM, EVEN WORSE. APART FROM THE PERSONAL AFFRONT THAT WOULD BE GIVEN SOME OF THE PARTICIPANTS, IT WOULD BE A CLEAR SIGN THAT THEY COULD NOT DEAL CONFIDENTIALLY WITH US AND THEY WOULD REACT ACCORDINGLY.

2. WE HAVE CONSIDERED SEEKING CONCURRENCE OF CHIEF OF FEDERAL POLICE AND OF FOREIGN MINISTRY TO DISCLOSURE OF CITED INFORMATION BUT HAVE DECIDED AGAINST IT ON THE GROUNDS THAT IT WOULD REQUIRE SHOWING THE DOCUMENTS IN QUESTION. IN OUR OPINION, THAT ALONE WOULD CONSTITUTE A SUBSTANTIAL IRRITANT SUFFICIENT TO AFFECT THE NARCOTICS PROGRAM AS WELL AS BILATERAL RELATIONS. IN ADDITION, WE ARE MORALLY CERTAIN THAT, WHILE WE WOULD HAVE FIFTY-FIFTY CHANCE WITH THE CHIEF OF POLICE WHO IS A TOUGH COP, THE FOREIGN
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MINISTRY CHANCE WOULD BE MORE LIKE TEN-NINETY.

3. IN ARRIVING AT OUR DECISION, WE HAVE CONSIDERED
TOSCANINO'S STATUS AS A TOP TRAFFICKER, THE
POTENTIAL EFFECT ON THE KER V ILLINOIS (1886) AND
FRISBIE V COLLINS (1952), RULE AND THE FACT THAT
SUBSEQUENT DEFENDANTS MAY PRESENT A SIMILAR DEFENSE.
NEVERTHELESS, IF ALTERNATIVES ARE REALLY AS STARK
AS SUCCESSFUL PROSECUTION WITH RELEASE OF CONFIDENTIAL
CABLES ON U.S.-BRAZILIAN CONVERSATIONS OR TOSCANINO'S
RELEASE, THEN WE VERY REGRETFULLY OPT FOR RELEASE.
CRIMMINS

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